[Mr. P. K. Narayana Pillai.]

MR. V. SUBBA AIYAR: I beg to move that the Bill as passed by the Council be read on a future day of which notice will be given.

MR. S. PARAMESVARA AIYAR: I second the motion.

The motion was put to the vote and carried.

THE TRAVANCORE EZHAVA BILL.

PRESIDENT: We shall now resume the discussion on the Ezhava Bill.

MR. V. SUBBA AIYAR: Sir, we had been discussing about the introduction of an additional clause to enable Government to exempt certain classes of people among the Ezhava community who are not willing to be governed by certain provisions of this bill. After considering the matter and after discussing it with the members of the House, I am inclined to make some changes in the clause already moved by me. I accordingly move that the following be substituted for that clause:

Add the following as clause 33:

(1) On an application made within six months from the commencement of this Regulation,

i. by an individual member of an Ezhava *tarwad* with reference to the provisions of Part IV or

ii. by a majority of the adult members of such *tarwad* with reference to the provisions of Part VII (i),

the Government may, after making such enquiry as may be necessary and on being satisfied as to the truth of the application, exempt by a notification in the Government Gazette such individual member or *tarwad*, as the case may be, from the operation of the said provisions of the Regulation.

(2) On an application made by

i. the individual member or

ii. a majority of the members of the *tarwad*

exempted under sub-section (1), the Government may, after making such enquiry as may be necessary and after being satisfied as to the truth of the application, revoke such exemption by a notification in the Government Gazette.

MR. N. NILAKANDA PILLAI: I second the motion.

MR. C. P. KOCHUKUNJU PILLAI: I second the motion.

PRESIDENT: It has already been seconded. May I take it that it is accepted by the Council?

MR. P. K. NARAYANA PILLAI: I beg to move an amendment to this amendment.

PRESIDENT: Well, I must know what the amendment is.

MR. P. K. NARAYANA PILLAI: I only want the addition of one word. The community itself is divided into three classes, pure *makkathayees*, *marumakkathayees*, and the *misravazhi* class of people. In the present instance, the opposition that has been offered to this particular measure originated from the third class. It is they who have raised objections with reference to certain provisions of the bill and not

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any other sub-division of the community. In trying to meet them halfway, Mr. Subba Aiyar agrees to exempt them from the operation of this particular measure by providing the clause under discussion.

PRESIDENT: Are the *misravazhi* community the only people who objected to this measure? Are there no other members of other schools who may have objection to this?

MR. T. KUMARA PILLAI: നെയ്യാറ്റിൻകര താലൂക്കിലെ പല മരുമക്കത്തായ ഈഴവർക്കും ബില്ലിനെപ്പറ്റി ആക്ഷേപമുണ്ട്.

MR. P. K. NARAYANA PILLAI: So far as this Council is in a position to know, there is no information that any *marumakkathayam* Ezhava has any objection to any part of this bill.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: May I ask whether the information contained in the Ezhava Law Committee's report is not a piece of information which is before this Council.

MR. P. K. NARAYANA PILLAI: I do not say that it is not. It is there. But they did not object to the bill on its emergence from the Select Committee though it had been published in the Gazette. If Mr. Rangaswami Aiyangar is prepared to vouch for the existence of dissentients in the *marumakkathayam* class of the community, I am prepared to accept his assurance.

PRESIDENT: Mr. Kumara Pillai said something about the Neyyattinkara Ezhavas.

MR. T. KUMARA PILLAI: Yes.

PRESIDENT: He said that a number of *marumakkathayam* families wanted to be where they were.

MR. M. GOVINDAN: There is no *marumakkathayam* family pure and simple, there.

PRESIDENT: I am only quoting Mr. Kumara Pillai who is a member of the House.

MR. T. KUMARA PILLAI: That is my opinion.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Is Mr. Narayana Pillai prepared to give an assurance that every member of the *marumakkathayam* community is now desirous of having this measure?

MR. P. K. NARAYANA PILLAI: That assurance is absolutely unnecessary because it is for persons who object to come forward and formulate their objections. For example, but for Mr. Paramesvaran's protest, we would not have thought of any exemptions. The publication of the bill is for eliciting objections. As long as they do not come forward to object to it, there is no justification to presume that there will be objection.

PRESIDENT: But they have. We have Mr. Kumara Pillai's statement.

MR. P. K. NARAYANA PILLAI: Mr. Kumara Pillai's statement is in conflict with Mr. Govindan's information.

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[Mr. V. Subba Aiyar.]

PRESIDENT: He is a member of this House.

MR. P. K. NARAYANA PILLAI: Mr. Govindan says that there are no *marumakkathayam* families pure and simple in Neyyattinkara.

PRESIDENT: We cannot judge between the two members. I am afraid I cannot accept the amendment. After all, the amendment brings in only an enabling provision. There is no harm in putting it in.

MR. P. K. NARAYANA PILLAI: We have one statement against another statement, so much so that we are still in the dark as to whether there is any objection from the *marumakkathayam* section of the community at all. Representing, as I do, a taluk in which there are a number of *marumakkathayam* Ezhavas, I have received absolutely no information of any objection on their part to the provisions of the bill. And since there has been a prayer from the *marumakkathayam* section along with the *misravazhi* people that there should be a change in their law of inheritance and intestate succession, we are certainly ignoring the original prayer of the *marumakkathayees* when we say that, although they have prayed for this measure, we would all the same presume a desire on their part to do without it. This House is exposing itself to the charge of a clear inconsistency. With respect to those who object to the measure, we may insert an exemption clause, but not with reference to others who remain quiet, being under the impression that they would be kept within the bill. To provide for them also—which means telling them all on a sudden that they may go out of the bill—is something not quite agreeable. I therefore move that the words "following the *misravazhi* system of inheritance" be inserted after "*tarwad*" in the amendment now proposed.

PRESIDENT: I regret I cannot accept that amendment.

MR. A. GOVINDA MENON: I beg to oppose the amendment on the ground that it will work unnecessary hardship upon a section of the people who do not want it. It is only the *misravazhi* class of people, as my friend Mr. P. K. Narayana Pillai said, who have been persistently asking for it. If they want it, let them by all means have it. But why should other people be dragged along with them? I cannot understand why Mr. P. K. Narayana Pillai's suggestion could not be accepted. I come from a taluk in which there are a number of *marumakkathayam* Ezhavas. Not one of them wants to be excluded from the measure. In fact, they are all for individual partition.

MR. T. K. VELU PILLAI: What about Mr. Narayana Pillai's amendment?

PRESIDENT: It was not accepted by me.

MR. V. SUBBA AIYAR: It is on the strength of the evidence of the majority that the bill has been drafted; and the bill has been practically passed by the House. If there is anybody in the community who is against any of the provisions, say partition or intestate succession, it is open to him to apply for exemption. It is on that principle that this

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amendment has been drafted. It may be that those who agitated since the commencement of this session are the only people who seek exemption. From the committee's report it will be seen that three or four *marumakkathayam tarwads* do not want partition. It may be that some *tarwads* which are in affluent circumstances do not want partition and desire to continue impartible. In order to enable them to do so, the amendment has been put in in a general way and I do not think there could be any objection to it. If nobody takes advantage of it, so far so good. I do not think that this amendment will in any way affect the main provisions of the bill.

PRESIDENT: I shall put Mr. Subba Aiyar's present amendment to the vote. The question is that the following be added as a new clause after clause 32 in the bill:

(1) On an application made within six months from the commencement of this Regulation,

i. by an individual member of an Ezhava *tarwad* with reference to the provisions of Part IV or

ii. by a majority of the adult members of such *tarwad* with reference to the provisions of Part VII (i)

the Government may, after making such enquiry as may be necessary and on being satisfied as to the truth of the application, exempt by a notification in the Government Gazette such individual member or *tarwad*, as the case may be, from the operation of the said provisions of the Regulation.

(2) On an application made by

i. the individual member or

ii. a majority of the members of the *tarwad*,

exempted under sub-section (1), the Government may, after making such enquiry as may be necessary and after being satisfied as to the truth of the application, revoke such exemption by a notification in the Government Gazette.

The motion was put to the vote and carried.

It was added as clause 33 in the bill.

PRESIDENT: Are you moving your amendment, Mr. Madhava Variar?

MR. M. R. MADHAVA VARIAR: I wish to move only a part of it, because there is already the provision for the impartible *tarwad* which has just now been passed by the House.

PRESIDENT: What is the portion that you want to move?

MR. M. R MADHAVA VARIAR: The portion relating to individualisation.

PRESIDENT: Yes.

MR. M. R. MADHAVA VARIAR: I beg to move that the following be inserted after the new clause 33 which has just now been passed by the House:

34. "Any *tarwad* wishing to have individual partition and to exclude itself from the operation of the above section as to *thavazhee* partition may notify its intention of individual partition by registering its name as an individually partible *tarwad* in the office of the Dewan Peishkar within whose jurisdiction the *tarwad* is situate.

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[Mr. M. R. Madhava Variar.]

35. Notice of such intention as specified by section 32 shall be given by the majority of the adult members of each *thavazhee* of the *tarwad*.

36. On receipt of such notice, the Dewan Peishkar shall, if he is satisfied that the said notice is agreed to and signed by the majority as provided for by section 35, register the *tarwad* as an individually partible *tarwad* and, if he is not so satisfied, reject such notice.

37. The Dewan Peishkar shall keep a register of all applications and orders as provided for in sections in this chapter and such register shall be open to the public who shall be allowed copies of such registers.

38. All proceedings taken by the Dewan Peishkar under this chapter shall be deemed to be judicial proceedings and his orders shall be final.

39. Any member of a *tarwad* registered as individually partible under the above sections may claim or be compelled to divide from any other member of the *tarwad*".

The object of my amendment is to protect the majority against the onslaught of the minority. There is a loud cry among all the *marumakkathayees* that their system of inheritance and *tarwad* management is unsuited to the times and temperament of the people. So the majority of individuals in the community are clamouring for individual partition. I think it will be readily admitted by this House that the tendency of the Ezhavas is towards individual partition and *makkathayam*. Among 802 witnesses examined by the Ezhava Law Committee, 512, or 63 per cent. are supporters of individual partition. I find from Mr. Nidiry's dissenting minute that, since the publication of the draft bill, the Select Committee has received several resolutions passed at public meetings of Ezhavas pressing for individual partition. The Ezhava Law Committee itself is of opinion that individual partition will serve more to eradicate the evils of joint ownership than partition by *thavazhee*. In spite of the general clamour of the majority and in spite of the evidence of 63 per cent. of the witnesses, the Ezhava Law Committee and the Select Committee have favoured the minority for the sake of caution and moderation. It is pardonable that in matters of social legislation the committees have preferred to be on the side of moderation so far as partition in general is concerned. I too do not propose that all Ezhavas should be given the right to claim individual partition. Every *thavazhee* is now allowed to claim partition on certain conditions. If the members of a *thavazhee* find it difficult to agree among themselves, this bill does not allow them to effect individual partition. If the majority of members in a *thavazhee* desire to separate, is it proper on our part to refuse them the right of individual partition? If this House is inclined to respect the rights of the majority in the community and in the *tarwad* and if they consider consistency as a virtue in legislation, I am sure that they cannot but vote for this amendment. I think it is unsafe to rely always on the recommendations of the Ezhava Law Committee. We have to read that report and draw our own conclusions, instead of blindly adopting the conclusions arrived at by the committee. The committee, as far as I can understand, does not correctly reflect the opinion of the majority with regard to individual partition.

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The second portion of my amendment is that, if the majority of the members in a family wish to remain impartible, they may be allowed to remain so. If the majority thereafter wish to have *thavazhee* or individual partition they can by a notice to the Division Peishkar effect partition. By my amendment I seek to respect not only the majority of major members in a *tarwad* but the majority of major members in each *thavazhee* also.

The principle underlying these amendments is not new. It is accepted by this legislature and also by legislatures outside Travancore. In the Cochin Nair Regulation, certain *tarwads* are exempted from the operation of partition and allowed to remain impartible. As Mr. Subba Aiyar remarked yesterday, enabling provisions like these find a place in the Christian Succession Regulation and in the Nair Bill recently introduced by Mr. K. P. Raman Pillai.

Yesterday, Mr. Govindan remarked in connection with another but minor amendment that it would be very difficult to make enquiries into the question of consent and signature. I do not think that this difficulty is insuperable. The Dewan Peishkar is invested with the powers of a judicial officer by this amendment to go into all matters in dispute. By these provisions it is intended to restrict the desire for individual partition considerably. First of all, all the major members will have to unite; and secondly they will have to undergo a judicial trial in cases of dispute. Even now the members of a family can effect individual partition by agreement. But if the *karanavan* or any one adult member is against the proposal, the majority is made to submit to the minority by the bill. If these provisions are added to the bill, the majority can divide from a tyrant *karanavan*. These provisions are therefore calculated to promote concord and peace between relatives and to safeguard the rights of the majority in the community and in the *tarwad*. So I recommend these amendments for the acceptance of this House.

MR. A. GOVINDA MENON: I beg to second the motion. The House having given exemption to those who want to sit still and keep to the old archaic system, they should in justice give to the party who wants to advance a little the same freedom and the same right. There is absolutely no reason why, while one party should be allowed to be excluded from the operation of a law, the other should be forced to be shackled by its provisions. In fact the party which wants individual partition forms the majority of the whole community of the Ezhavas. The *misravazhi* party numbers only about two lakhs out of a total of six lakhs of Ezhavas in the State. The rest includes *makkathayees* and *marumakkathayees* in *makkathayam* garb. If we exclude *makkathayees* numbering about a lakh, there are about three and a half lakhs of Ezhavas who, in the eyes of the law, follow the *marumakkathayam* system. My friend Mr. Kumara Pillai said that some of them did not wish to have any change at all. I do not think

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[Mr. V. Subba Aiyar,]

I can accept his opinion in the face of the opinion expressed by Mr. Govindan. I must accept Mr. Govindan's opinion, because he is not only a neighbour to the Neyyattinkara Ezhavas but is also a member of the same community. Mr. Kumara Pillai belongs to another community and his opinion cannot therefore be accepted as correct. I say that the majority of the community are *marumakkathayees* who desire individual partition, because, according to Mr. Paramesvaran's own account, 80 per cent. of the two lakhs composing the *misravazhi* party alone do not want any change. So, out of the six lakhs of Ezhavas there are, excluding those who are *makkathayees*, three and a half lakhs of people who want individual partition. I do not therefore see any reason why they should not be given the same benefit of exemption as is accorded to the *misravazhi* party.

MR. V. SUBBA AIYAR: Sir, I oppose the amendment. In the first instance, I shall meet Mr. Govinda Menon's argument. He asks why, if we provide an enabling section for a minority, the same could not be done in regard to others who require or may require individual partition. My simple answer is that we are legislating in a particular way and that those who are not agreeable to that legislation and consider the bill revolutionary are allowed to continue in the existing state of affairs, and that liberty is given to them for applying for exemption. What Mr. Govinda Menon and Mr. Madhava Variar want is that, although *thavazhee* partition was the partition that was recommended by the Ezhava Law Committee, that was placed before the community and before this House and although that has been passed by this House, yet individual partition also should be made optional. What is meant by individual partition? What are the restrictions to be made? What is the share each should get? All these should be placed before the community and they should have ample opportunity to express their opinion. The community, as far as I know, has not come forward with any such amendment.

MR. M. R. MADHAVA VARIAR: What is the opinion of the Ezhava Law Committee in regard to individual partition?

MR. V. SUBBA AIYAR: The committee have recommended only *thavazhee* partition.

MR. A. HOOGEWERF: Is there not a demand for individual partition also?

MR. V. SUBBA AIYAR: If so, the proper course will be to amend the law later on, when the general consensus of opinion is for individual partition. Till then, we shall not be justified in introducing an enabling provision in regard to individual partition. Till now, no opportunity has been given to the community to express its views regarding individual partition. After having accepted *thavazhee* partition as the basis and after having introduced it in the bill, to put in an enabling provision in regard to individual partition is a thing which, I might even say, is beyond the competency of this House. For these reasons, I oppose the amendment.

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MR. M. R. MADHAVA VARIAR: Mr. Subba Aiyar opposes my amendment on the ground that the community does not want individual partition. If he reads the evidence given by the witnesses before the Ezhava Law Committee, he will understand that the majority of the witnesses wanted individual partition. The question of individual partition was considered by that committee, and their opinion was that it would tend to eradicate the evils of joint ownership. But they wished to err on the side of moderation. That was their argument. So, we cannot say that the community does not want it, simply because the committee recommended *thavazhee* partition. Moreover, all the provisions in regard to intestate succession will apply if individual partition is allowed. So, there is no difficulty if this amendment is accepted by the House.

MR. V. SUBBA AIYAR: I have nothing to add to what has been already said by me.

PRESIDENT: The question is that the additional clauses proposed by Mr. Madhava Variar be inserted after the last clause in the bill.

The amendment was put to the vote and lost.

MR. V. SUBBA AIYAR: There are two more points to be considered. One is with reference to the preamble of the bill. This was merely postponed for consideration in order to see whether it would require any alteration in the light of the amendments that might be passed by the House. I do not think that it requires any change.

Then there is clause 3 in regard to which Mr. Paramesvaran has given notice of an amendment.

Clause 3.

MR. P. PARAMESVARAN: ഞാൻ എന്റെ അമെൻഡ്മെൻറിനെ പിൻവലിച്ചിരിക്കുന്നു.

The following amendment was accordingly not moved.

MR. P. PARAMESVARAN: Add before the word 'or' in sub-clause (*a*) in line 2:

"Excepting the families who have been observing the *misradayam* system of succession."

MR. M. GOVINDAN: In clause 3, I find that a small verbal amendment has to be made, that is, the words "or the offspring of" have to be deleted, because dissolution of marriage has nothing to do with paternal relationship. I think it is only a slip, but it will lead to inconvenience later on. It is only when the succession opens that the question has to be decided. There may be divorce or death of the wife before the passing of the regulation. The child should still inherit the property of the father if he dies after the regulation.

PRESIDENT: I do not quite follow you. Will you please explain?

MR. M. GOVINDAN: This clause, *i. e.*, clause 3 (*a*) is meant to govern the chapter on intestate succession. In that chapter, we

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[Mr. M. Govindan.]

have provided for the widow inheriting in some cases and for the husband also in some cases. If the marriage has been dissolved before the date of the regulation, none of these need inherit. The dissolution may be either by consent of parties or by the death of one of the parties or by the registration of an instrument. If the marriage had been dissolved before the date of the regulation, the parties to the marriage could not inherit, *i. e.*, the husband could not inherit the wife's property and *vice versa*. But dissolution taking place *before* the date of the regulation could not affect the paternal relationship of an offspring. Therefore, if a man acquires property and the marriage is dissolved by consent or by death, and if subsequent to the date of the regulation the man dies, the child may inherit. Hence my proposal is to delete the words "or the offspring of".

PRESIDENT: To me it looks reasonable. But I am only a layman and I am not a lawyer. You are flinging this up without notice. I am not quite aware of all the implications of the thing.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR: Mr. Govindan says that the retention of the expression will lead to inconvenience.

PRESIDENT: Yes, the child will not inherit.

MR. K. PARAMESVARAN PILLAI: I support Mr. Govindan's proposal.

PRESIDENT: I have not given permission to Mr. Govindan to move the amendment.

MR. M. GOVINDAN: I was co-opted very late and so I had not sufficient time to give notice.

PRESIDENT: I am considering whether anything more is needed. That is the only difficulty.

MR. V SUBBA AIYAR: There seems to be much force in what Mr. Govindan has urged. But I have to see whether other clauses will be affected by this amendment.

PRESIDENT: You can bring this up as an amendment later on.

Mr. V. SUBBA AIYAR: I can assure Mr. Govindan that I shall bring up that amendment if it does not interfere with any other clause. It looks as if it has to be accepted. Whether it will seriously interfere with other clauses I cannot say now.

PRESIDENT: *Prima facie* what you said seems alright, Mr. Govindan. But it requires consideration. If it is found to be really necessary, the amendment will be brought forward by the Government member at a later stage.

MR. M. GOVINDAN: May I know if the suggestion I made will be noted.

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PRESIDENT: It will form part of the proceedings.

MR. V. SUBBA AIYAR: I beg to move that the bill be taken up again for consideration at a future stage. Of course, the various amendments that have now been passed by the House may perhaps require some consequential verbal amendments, when all the clauses are carefully scrutinised. The points referred to will also be carefully considered and the necessary amendments will be moved by me when the bill comes up for final reading. I beg to move that the bill be read again on a future date of which notice shall be given.

MR. M GOVINDAN: I second the motion.

PRESIDENT: The question is that the bill be read again on a future date of which notice shall be given.

The motion was put to the vote and carried.

THE REVENUE SUMMONS REGULATION AMENDMENT BILL.

MR. V. SUBBA AIYAR: Sir, I beg to present the report of the Select Committee on the Revenue Summons Regulation Amendment Bill and to move that the same be taken into consideration now.

MR. S. PARAMESVARA AIYAR: I second the motion.

Clause 1.

MR. P. K. NARAYANA PILLAI: Sir, I beg to move that the word 'fifty' be substituted for 'seventy-five' in clause (1) of the second proviso.

The bill, as amended by the Select Committee, empowers the Commissioner for Land Revenue and Income-tax to summon a person residing within a radius of seventy-five miles from the place to which he is summoned. I am suggesting this amendment, so that this particular provision may be brought into line with similar provisions in other regulations. For example, I may draw the attention of the House to a similar provision in the Civil Procedure Code, section 171, where the code enables a District Judge or a District Munsiff to summon only a person residing not beyond fifty miles from the court-house. I may also draw attention to another kindred regulation *i. e.*, the Departmental Enquiries Regulation, where section 2 also empowers a revenue officer or any officer embarking on a departmental enquiry to summon only persons living within fifty miles from the head-quarters of the officer. The Departmental Enquiries Regulation and the Revenue Summons Regulation are both borrowed from two statutes of the Madras Legislature, and they are interdependent, to some extent, so far as the Madras statutes are concerned. In view of that, I thought that the whole thing might be reduced to uniformity by inserting 'fifty' in the place of 'seventy-five'. That is the object of the amendment; and I move it for acceptance by the Council.

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